



January 9, 2006

Coyote Valley Task Force

Dear Members of the Coyote Valley Task Force;

The Committee for Green Foothills makes the following recommendations for the agricultural land mitigation strategy options:

1. The agricultural assessment discussed in the city's agricultural land conservation and mitigation memo should be done now, in the Specific Plan EIR process, and not at some later point as the memo appears to imply. The decision to convert the land from agricultural uses to other uses will be taken at the time that the Specific Plan is approved (if that happens), even though the actual conversion waits until later. There is therefore no reason to wait in doing the agricultural assessment. Any waiting would constitute illegal segmentation of the environmental analysis. Furthermore, the assessment of the land's agricultural value looks in part upon the use of adjoining parcels. If this agricultural assessment and development is done in piecemeal fashion, then at some midway point, the piecemeal loss of Coyote Valley farmland will be used as an excuse to claim that the remaining agricultural lands in Coyote Valley have no agricultural significance.
2. The city should not alter the LESA agricultural assessment by allowing exceptions where land rated at a score of greater-than 39 points could be converted away from agriculture without being deemed a significant loss. The city's justification for this on page 4 of its memo states that the General Plan goal is to avoid "premature" conversion of agricultural lands, with the implication that when it is "mature" then conversion is not significant. This is an improper environmental analysis. The loss of agricultural land is either significant or it is not, and whatever goals are considered for the use of that land subsequently do not matter. Those goals are only relevant for deciding whether other overriding considerations outweighs the significant environmental impact. In other words, whatever goals that the city has with a project does not change whether the impacts of reaching those goals are significant.
3. The four strategy options may give an unintentionally misleading impression that the city is equally free to choose between the different options. Environmental analysis does not work like that. Either an impact is significant or it is not, no matter what the city may wish. Furthermore, CEQA requires that the city adopt any feasible mitigations for impacts that are determined to be significant.
 - If preservation of agricultural land is a feasible mitigation for the significant loss of agricultural land, the city has no choice - it must go ahead and impose preservation requirements. We believe that the "no change" Strategy Option I fails to meet legal requirements as established in recent case law cited in our letter to the city, dated July 1, 2005 (part of the Task Force packet). Therefore, this option is not available to the city as a legal choice.
 - We can see no credible analysis concluding that a preservation of less agricultural land than the land that is lost to be something that reduces the impact to a less-than-significant level. Therefore, Strategy Option II is also not a legal option.
 - If the city believes that Strategy Option III is available to it, the city must explain why preserving land at a ratio of 1:1 or greater is not feasible. Absent a fully-adequate explanation, Strategy Option III is not a legal option. Given the availability of farmland in and near to Coyote Valley, we do not believe the city can justify this option.

4. The city must acknowledge that instead of adopting overriding considerations, it can also choose to reject the project. Such acknowledgment is missing from the city memo.

Please contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Schmidt", with a stylized flourish at the end.

Brian A. Schmidt
Legislative Advocate, Santa Clara County